

GRANT OF WETLAND EASEMENT AND COVENANTS

This GRANT OF THESE WETLAND EASEMENTS is made by DRA Properties, LC, located at 1525 NE 36th Street, Ankeny, Iowa 50021 (hereinafter referred to as the "Grantor") to the City of Ankeny, Iowa, a municipal corporation, (hereinafter referred to as "Grantee").

WITNESS THAT:

WHEREAS, the Grantor is the owner in fee of certain real property located in the County of Polk, in the State of Iowa, described more particularly as follows, and referred to herein as the "Wetland Areas":

See Attached Exhibits A, B and C

WHEREAS, the Grantor desires and intends that the natural elements and the ecological and aesthetic values of the Wetland Areas be maintained and improved in accordance with the terms and conditions of this Easement and these Covenants;

WHEREAS, the Grantor and Grantee both desire, intend and have common purpose of conserving and preserving in perpetuity the Wetland Areas in a relatively natural condition by placing restrictions on the use of the Wetland Areas and by transferring from the Grantor to the Grantee, by the creation of a wetland easement on, over and across the Wetland Areas, affirmative rights to ensure the preservation of the natural elements and values of the Wetland Areas; and

NOW THEREFORE, the Grantor, do hereby give, grant, bargain and convey to the Grantee, its successors and assigns, forever, a Wetland Easement and the making of these Covenants.

- a. The right of the Grantee to enforce by proceedings at law or in equity the Covenants hereinafter set forth. The right shall include but not be limited to, the right to bring an action in any court of competent jurisdiction to enforce the terms of these Covenants, to require the restoration of this property to its natural condition or to enjoin non-compliance by appropriate injunctive relief. The Grantee does not waive or forfeit the right to take action as may be necessary to ensure compliance with terms of these Covenants by any prior failure to act. Nothing herein shall be construed to entitle the Grantee to institute any enforcement action against the Grantor for any changes to the Wetland Areas due to causes beyond the Grantor's control and without the Grantor's fault or negligence (such as changes caused by fire, flood, storm, civil or military authorities undertaking emergency action or unauthorized wrongful acts of third parties).
- b. The right of the Grantee, its contractors, agents and invitees, to enter the Wetland Areas, in a reasonable manner and at reasonable times, for the purpose of inspecting the Wetland Areas to determine if the Grantor is complying with the Covenants and promises, and further to observe, study, record and make scientific studies and educational observations.

- c. The right of the Grantee to install, operate and maintain water control structures for the purpose of protecting, re-establishing and enhancing wetlands and their functional values. This includes the right to transport construction materials to and from the site of any existing or proposed water control structure.
- d. The right of the Grantee to establish or re-establish vegetation through seedings or plantings.
- e. The right of the Grantee to manipulate vegetation, topography and hydrology on the Wetland Areas through diking, pumping, water management, excavating, burning, cutting pesticide application and other suitable methods for the purpose of protecting, enhancing wetlands and wetland vegetation.

AND IN FURTHERANCE of the foregoing affirmative rights, the Grantor makes the following covenants on behalf of itself and its heirs, successors and assigns, which covenants shall run with and bind the Wetland Areas in perpetuity:

COVENANTS

- a. USES. There shall be no commercial, industrial or residential activity undertaken or allowed within the Wetland Areas.
- b. BUILDINGS AND STRUCTURES. There shall be no buildings, dwellings, barns, roads, advertising signs, billboards or other structures built or placed in the Wetland Areas.
- c. TOPOGRAPHY. There shall be no dredging, filling, excavating, mining, drilling or removal of any topsoil, sand, gravel, rock, minerals or other materials. There shall be no plowing or any other activity that would alter the topography of the Wetland Areas.
- d. DUMPING/DISPOSAL. There shall be no dumping of trash, ashes, garbage or other unsightly or offensive material, especially including any hazardous or toxic waste.
- e. WATER. The hydrology of the Wetland Areas will not be altered in any way or by any means including pumping, draining, diking, impounding or diverting surface or ground water into or out of the Wetland Areas.
- f. AGRICULTURAL USES. No plowing, tilling, cultivating, planting, timbering, or other agricultural activities may take place within the Wetland Areas.
- g. The Grantor is responsible for compliance with all federal, state and local laws governing the safety and maintenance of the property, including the control of noxious weeds within the Wetland Areas.
- h. There shall be no operation of any motorized watercraft, vehicle, or equipment within the Wetland Areas.

i. VEGETATION. Except in conjunction with the authorized uses set forth in paragraph g. above, there shall be no removal, cutting, mowing or alteration of any vegetation or change in the natural habitat in any manner.

NOTWITHSTANDING the foregoing restrictions, the Grantor and Grantee may construct and maintain any project features or mitigation features expressly required by Corp permit number CEMVR-OD-P-2006-218.

RESERVED RIGHTS

These covenants do not authorize entry upon or use of the Wetland Areas by the general public.

The Grantor and their invitees may hunt and fish in the Wetland Areas so long as they comply with all federal, state and local game and fishery regulations.

Nothing herein shall be construed as limiting the right of the Grantor to sell, give or otherwise convey the Wetland Areas, or any portion or portions thereof, provided that the conveyance is subject to the terms of these Covenants.

GENERAL PROVISIONS

These Covenants shall run with and burden the Wetland Areas in perpetuity and shall bind the Grantor, their heirs, successors and assigns. These Covenants are fully valid and enforceable by any assignee of the Grantee, whether assigned in whole or in part.

The Grantor warrants that it owns the Wetland Areas in fee simple, and that Grantor either owns all property interests in the Wetland Areas which may be impaired by the granting of these Covenants or that there are no outstanding mortgages, tax liens, encumbrances, or other interests in the Wetland Areas which have not been expressly subordinated to these Covenants by signing below. If it is determined at any time that there is any party who may have a property interest in the Wetland Areas that is superior to these Covenants, then the Grantor shall immediately obtain and record a consent and subordination agreement signed by the other party. Acceptance of these Covenants does not release the Grantor from the obligation to obtain and record a consent and subordination agreement signed by any party who may have a property interest in the Wetland Areas that is superior to these Covenants, even if such interest was of record at time of acceptance.

The Grantor agrees to pay any and all real property taxes and assessments levied by competent authority on the Wetland Areas.

The Grantor agrees that the terms, conditions, covenants and restrictions set forth in this instrument will be inserted in any subsequent conveyance of any interest in said property.

The Grantee may assign or transfer the right to enforce these Covenants to any Federal or state agency or private conservation organization for management and enforcement.

The terms "Grantor" and "Grantee" as used herein shall be deemed to include, respectively, the Grantor and its heirs, successors, personal representatives, executors and assigns, and the Grantee and its successors and assigns.

The Grantor hereby warrants and represents that the Grantor is seized of the Wetland Areas in fee simple and has good right to grant and convey this Wetland Easement and make these Covenants, that the Wetland Areas are free of all encumbrances, except as hereinafter set forth.

And _____, being the owner and holder of _____ certain _____ lien _____ which is _____ against said premises do hereby join in consent to said conveyance free of said lien.

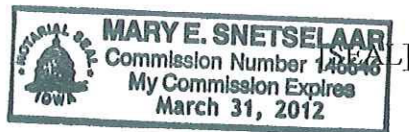
EXECUTIONS AND ACKNOWLEDGMENTS

IN WITNESS THEREOF, the Grantor has hereto set its hand and seal this 13th day of September (Month), (year). 2010

Jara Meredith, Secretary
DRA Properties, LC

County of Polk)
)
State of Iowa)

This instrument was acknowledged before me this 13 day of September by _____ and _____ (name(s) with marital status).



Mary E. Snetelaar
Notary Public
My Commission Expires: 3-31-12

IF THERE ARE ADDITIONAL HOLDERS OF INTERESTS IN THE REAL PROPERTY, CHECK HERE [] AND ATTACH ADDITIONAL SIGNATURE PAGES FOR THEIR CONSENT AND SUBORDINATION

Accepted this _____ day of _____, _____.

Grantee:

By _____
Steven D. Van Oort, Mayor

County of Polk)
)
State of Iowa)

This instrument was acknowledged before me this _____ day of _____, by
_____ and _____ (name(s) with marital status).

[SEAL]

Notary Public
My Commission Expires: _____

SAYLOR CREEK IMPROVEMENTS PHASE 2 WETLAND EXHIBIT
for part of Parcel "I" of the E 1/2 of Section 27-80-24 and part of
Parcel "J" of the SE 1/4 of Section 27-80-24
City of Ankeny, Iowa

WETLAND EASEMENT DESCRIPTION

That part of Parcel "I" of the East Half of Section 27, and that part of Parcel "J" of the Southeast Quarter of Section 27, all in Township 80 North, Range 24 West of the 5th Principle Meridian, as shown on the plats of survey recorded in Book 11295, Pages 669-674 and Book 11920, Page 256 respectively, and being more particularly described as follows:

Commencing at the southeast corner of said Section 27; thence North 00 degrees 15 minutes 30 Seconds East, along the east line of the Southeast Quarter of said Section 27, a distance of 673.48 feet; thence North 89 degrees 53 minutes 49 seconds East, a distance of 30.13 feet, to the Point of Beginning; thence South 77 degrees 18 minutes 24 seconds West, a distance of 13.71 feet; thence North 51 degrees 29 minutes 08 seconds West, a distance of 66.30 feet; thence North 89 degrees 21 minutes 47 seconds West, a distance of 29.23 feet; thence South 39 degrees 45 minutes 12 seconds West, a distance of 23.47 feet; thence South 71 degrees 29 minutes 39 seconds West, a distance of 25.98 feet; thence North 54 degrees 18 minutes 52 seconds West, a distance of 34.68 feet; thence South 80 degrees 53 minutes 10 seconds West, a distance of 66.31 feet; thence North 62 degrees 16 minutes 40 seconds West, a distance of 14.47 feet; thence North 36 degrees 52 minutes 13 seconds West, a distance of 16.37 feet; thence North 09 degrees 03 minutes 26 seconds West, a distance of 68.34 feet; thence North 81 degrees 42 minutes 08 seconds East, a distance of 97.48 feet; thence North 51 degrees 24 minutes 11 seconds East, a distance of 65.58 feet; thence North 85 degrees 20 minutes 29 seconds East, a distance of 61.45 feet; thence South 49 degrees 34 minutes 16 seconds East, a distance of 55.09 feet; thence South 09 degrees 02 minutes 05 seconds East, a distance of 86.26 feet; thence South 03 degrees 52 minutes 39 seconds West, a distance of 48.51 feet to the Point of Beginning. Containing 0.68 acres more or less.

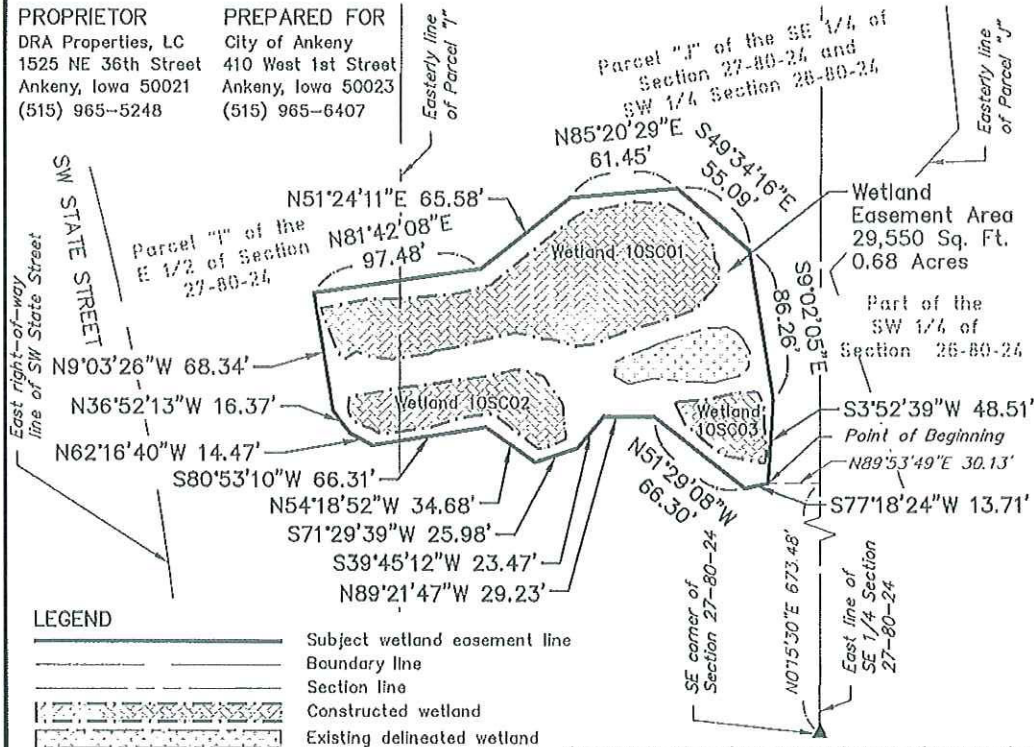
Said parcel is subject to any and all restrictions, covenants and easements of record.

PROPRIETOR

DRA Properties, LC
1525 NE 36th Street
Ankeny, Iowa 50021
(515) 965-5248

PREPARED FOR

City of Ankeny
410 West 1st Street
Ankeny, Iowa 50023
(515) 965-6407



2525 N. ANKENY BLVD #121
ANKENY, IOWA
NILES ASSOCIATES 50023-4703
(515) 965-0123
(515) 965-3322 (fax)

PROJECT:

Exhibit A
Saylor Creek Improvements Phase 2, Ankeny, IA

PROJECT NO.:

08113

CK. BY:

TJH

DR. BY: ADS

DATE: 05/14/10

SHEET:

1/1

SAYLOR CREEK IMPROVEMENTS PHASE 2 WETLAND EXHIBIT

for part of Parcel "J" of the SE 1/4 of Section 27-80-24

and the SW 1/4 of Section 26-80-24

City of Ankeny, Iowa

WETLAND EASEMENT DESCRIPTION

That part of Parcel "J" of the Southeast Quarter of Section 27 and the Southwest Quarter of Section 26, all in Township 80 North, Range 24 West of the 5th Principle Meridian, as shown on the plat of survey recorded in Book 11920, Page 256, and being more particularly described as follows:

Commencing at the southeast corner of said Section 27; thence North 00 degrees 15 minutes 30 seconds East, along the east line of the Southeast Quarter of said Section 27, a distance of 463.03 feet; thence North 89 degrees 33 minutes 16 seconds East, a distance of 43.36 feet, to the Point of Beginning; thence North 06 degrees 56 minutes 21 seconds East, a distance of 58.42 feet; thence North 33 degrees 20 minutes 09 seconds West, a distance of 144.35 feet; thence North 75 degrees 03 minutes 06 seconds East, a distance of 38.47 feet; thence South 55 degrees 19 minutes 10 seconds East, a distance of 150.75 feet; thence North 89 degrees 44 minutes 43 seconds East, a distance of 51.46 feet; thence South 26 degrees 31 minutes 15 seconds East, a distance of 119.10 feet; thence North 56 degrees 29 minutes 23 seconds East, a distance of 99.09 feet; thence South 32 degrees 11 minutes 21 seconds East, a distance of 33.69 feet; thence South 51 degrees 29 minutes 52 seconds West, a distance of 39.06 feet; thence South 23 degrees 55 minutes 43 seconds West, a distance of 90.16 feet; thence North 71 degrees 21 minutes 49 seconds West, a distance of 150.86 feet; thence North 32 degrees 48 minutes 54 seconds West, a distance of 87.03 feet, to the Point of Beginning. Containing 0.71 acres more or less.

Said parcel is subject to any and all restrictions, covenants and easements of record.






PROPRIETOR

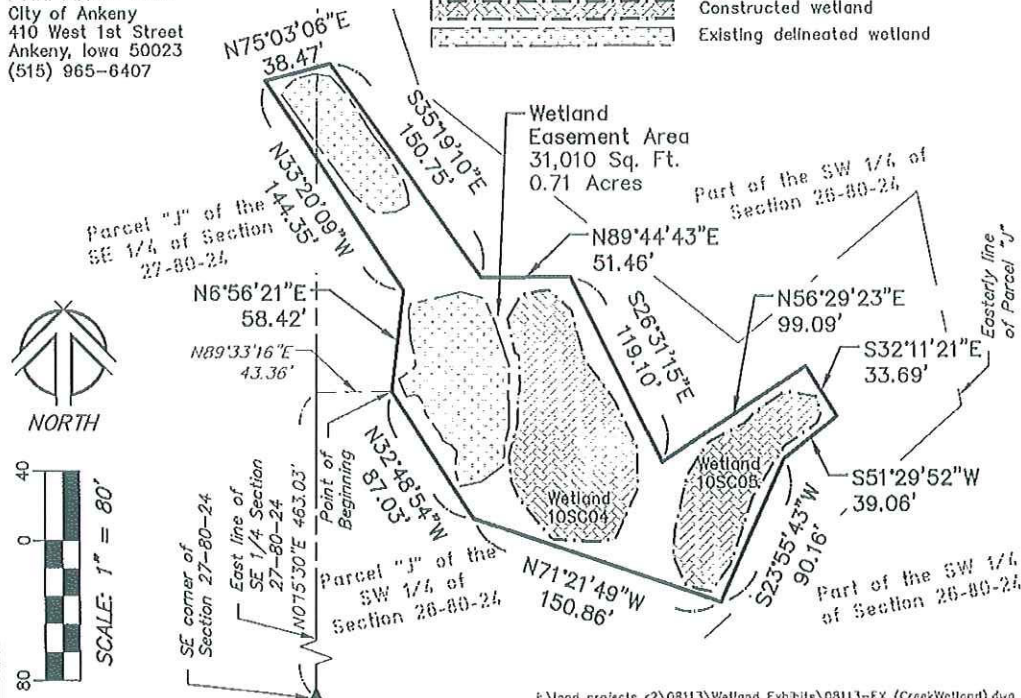
DRA Properties, LC
1525 NE 36th Street
Ankeny, Iowa 50021
(515) 965-5248

PREPARED FOR

City of Ankeny
410 West 1st Street
Ankeny, Iowa 50023
(515) 965-6407

LEGEND

-  Subject wetland easement line
-  Boundary line
-  Section line
-  Constructed wetland
-  Existing delineated wetland



J:\land projects\2\08113\Wetland Exhibit\08113-EX (CreekWetland).dwg

2525 N. ANKENY BLVD #121
ANKENY, IOWA
50023-4703
(515) 965-0123
(515) 965-3322 (fax)

PROJECT:

Exhibit B

Saylor Creek Improvements Phase 2, Ankeny, IA

PROJECT NO.:

08113

CK. BY:

TJH

DR. BY:

ADS

DATE: 05/14/10

SHEET:

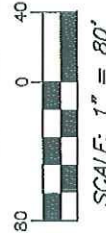
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SAYLOR CREEK IMPROVEMENTS PHASE 2 WETLAND EXHIBIT

for part of Parcel "F" of the NW 1/4 & the
NE 1/4 & the South Half of Section 27-80-24
City of Ankeny, Iowa



NORTH



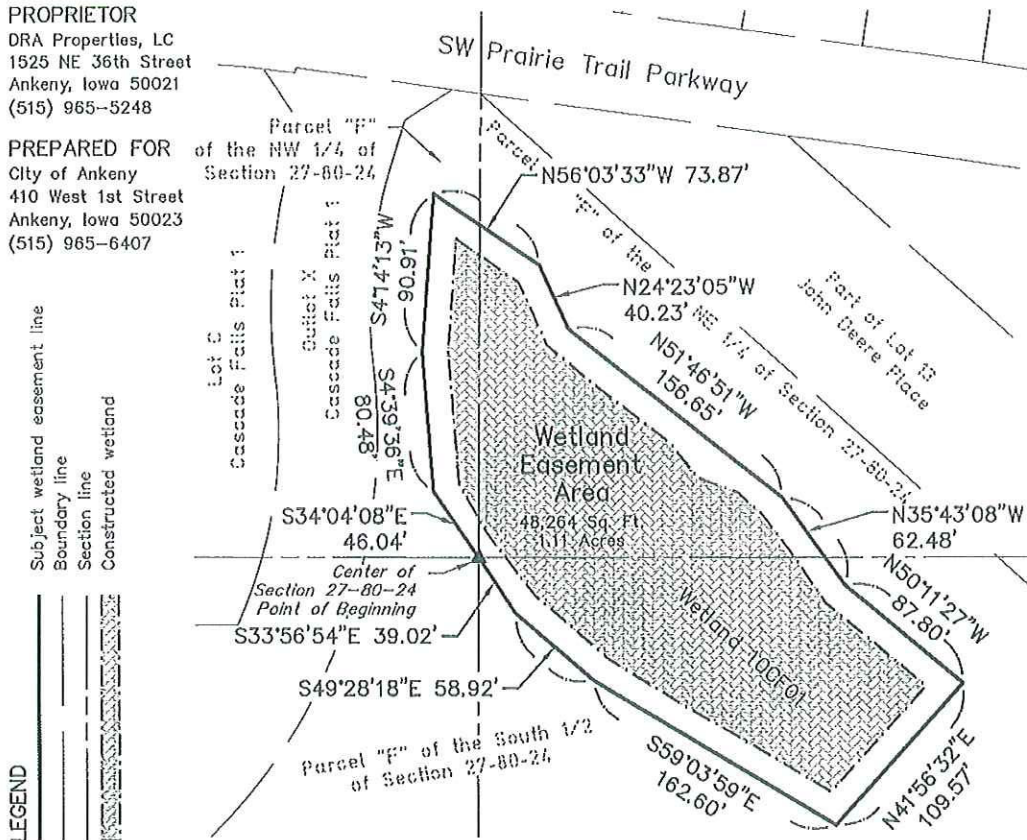
WETLAND 10CFO1 EASEMENT DESCRIPTION

That part of Parcel "F" of the Northwest Quarter of Section 27 and of the Northeast Quarter of Section 27 and of the South Half of Section 27, all in Township 80 North, Range 24 West of the 5th Principle Meridian, City of Ankeny, Polk County, Iowa, as shown on the plat of survey recorded in Book 11295, Pages 669-674, and being more particularly described as follows: Beginning at the Center of said Section 27; thence South 33 degrees 56 minutes 54 seconds East, a distance of 39.02 feet; thence South 49 degrees 28 minutes 18 seconds East, a distance of 58.92 feet; thence South 59 degrees 03 minutes 59 seconds East, a distance of 162.60 feet; thence North 41 degrees 56 minutes 32 seconds East, a distance of 109.57 feet; thence North 50 degrees 11 minutes 27 seconds West, a distance of 87.80 feet; thence North 35 degrees 43 minutes 08 seconds West, a distance of 62.48 feet; thence North 51 degrees 46 minutes 51 seconds West, a distance of 156.65 feet; thence North 24 degrees 23 minutes 05 seconds West, a distance of 40.23 feet; thence North 56 degrees 03 minutes 33 seconds West, a distance of 73.87 feet; thence South 04 degrees 14 minutes 13 seconds West, a distance of 90.91 feet; thence South 04 degrees 39 minutes 36 seconds East, a distance of 80.48 feet; thence South 34 degrees 04 minutes 08 seconds East, a distance of 46.04 feet to the Point of Beginning. Containing 1.11 acres, more or less. Said parcel is subject to any and all restrictions, covenants and easements of record.

PROPRIETOR

DRA Properties, LC
1525 NE 36th Street
Ankeny, Iowa 50021
(515) 965-5248

PREPARED FOR
City of Ankeny
410 West 1st Street
Ankeny, Iowa 50023
(515) 965-6407



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<p>2525 N. ANKENY BLVD #121 ANKENY, IOWA NILES ASSOCIATES 50023-4703 (515) 965-0123 (515) 965-3322 (fax)</p>	<p>PROJECT: EXHIBIT C Saylor Creek Improvements Phase 2, Ankeny, IA</p>	<p>PROJECT NO.: 08113</p>	<p>CK. BY: TJH OR. BY: ADS DATE: 05/14/10</p>	<p>SHEET: 1/1</p>
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